

REMARKS

Claims 1 and 3 through 14 are pending in this application. Claims 1, 12, 13 and 14 have been amended, as detailed above. For at least the reasons set forth below, Applicant respectfully submits that all of the pending claims are patentably distinguishable over the cited art. **If, for any reason, it is believed that this application is not in condition for allowance, Applicant's attorney hereby respectfully requests a telephonic interview with the Examiner to discuss the merits of this case, prior to the issuance of any further Action by the PTO.**

Claim 12 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Action contends that the limitation "said first and second handle portions" lacks sufficient antecedent basis.

Applicants respectfully submit that claim 12 has been amended to include proper antecedent basis for the limitation in question and is now complies with §112, second paragraph. As such, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1 and 4 through 14 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,927,796 to Whitehouse.

Whitehouse discloses a closure, or as is clearly depicted in Figures 1-6, a dust cover, for a conventional pressurized aerosol container. To secure the dust cover to the container, two diametrically opposed lips extend radially inwardly from a lower edge portion of the closure to engage an annular slot on the container. A manually actuatable tab is provided for freeing the closure from the container. The tab is connected to the lower edge portion of the closure by a flexible hinge. To remove the dust cover from the container, downward movement of the tab is applied, which releases the diametrically opposed lips from the annular slot.

Claim 1 recites an easy open, reusable, removable closure apparatus for a container. The container has a terminal end having an orifice and a radially outwardly extending bead having an outer surface and a radially outwardly extending undercut. The closure apparatus has a cap

portion having a top, a peripherally depending side wall comprising an inner surface that conforms to the bead outer surface and a radially inwardly extending peripheral lip that simultaneously engages the entire circumference of the bead undercut sealably securing the closure to the container. Material housed in the container is secured in the container by the cap portion. The cap portion has a handle depending from the cap portion. The handle has a fulcrum portion that abuts an outer surface of the container neck.

Claim 13 recites a method of opening a container using the easy open, reusable, removable closure apparatus for a container having a terminal end having an orifice and a radially outwardly extending bead having an outer surface and a radially outwardly extending undercut. The reusable closure apparatus comprises a cap portion having a top, a peripherally depending side wall having a radially inwardly extending peripheral lip that simultaneously engages the entire circumference of the bead undercut sealably securing the closure to the container. Material housed in the container is secured in the container by the cap portion. The closure apparatus also comprises a handle depending from the cap portion. The handle further comprises an upper portion, a lower portion, and a fulcrum portion there between the upper and lower portions. The fulcrum portion abuts an outer surface of the container neck. The method comprises the steps of holding the container and the lower handle portion of the handle with at least one hand and depressing the lower handle portion toward the container until the peripheral lip disengages the bead undercut.

Claim 14 recites a method of reusing the easy open, reusable, removable closure apparatus for a container having a terminal end having an orifice and a radially outwardly extending bead having an outer surface and a radially outwardly extending undercut. The reusable closure apparatus comprises a cap portion having a top, a peripherally depending side wall having a radially inwardly extending peripheral lip that simultaneously engages the entire circumference of the bead undercut sealably securing the closure to the container. Material housed in the container is secured in the container by the cap portion. The reusable closure also comprises a handle depending from the cap portion. The handle further comprises an upper portion, a lower portion, and a fulcrum portion there between the upper and lower portions. The fulcrum portion abuts an outer surface of the container neck. The method of reusing the reusable

closure apparatus comprises the steps of providing a container and pressing the cap portion of the easy open, reusable closure apparatus firmly down over the bead until the peripheral lip engages the bead undercut.

To anticipate a claim, the cited reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicant respectfully submits that Whitehouse fails to disclose or suggest each and every element of the claimed invention.

Claims 1, 13 and 14 recite, in relevant part, an easy open, reusable, removable closure apparatus with a cap portion having a radially inwardly extending peripheral lip that simultaneously engages the entire circumference of the bead undercut sealably securing the closure to the container.

To the contrary, the only mechanism securing the Whitehouse closure to the container is two diametrically opposed lips (col. 2, lines 45-46 and Figures 3-6). Consistent with the notation in paragraph 8, page 3 of the Action, nowhere in Whitehouse is a closure apparatus with a radially inwardly extending peripheral lip that simultaneously engages the entire circumference of the bead undercut remotely disclosed or suggested. As such, claims 1, 13 and 14 are patentably distinguishable over Whitehouse.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the §102(b) rejection.

Claims 1, 3 and 10 through 12 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,778,520 to Hyde, Jr. (Hyde).

Claim 1 is set forth above. Hyde is directed to a crown bottle cap with a handle. An important aspect of the cap is to form the cap with an opening and to form the crimped skirt portion of the cap with notches to weaken the cap at diametrically opposite portions to facilitate prying of the cap from the bottle. A cork or other suitable sealing disk is positioned on top of the neck of the bottle under the cap, prior to sealing the cap on the bottle.

Hyde clearly fails to anticipate the claimed invention in that it fails to disclose or suggest an easy open, reusable, removable closure apparatus for a container that includes (1) a cap portion with a handle depending from the cap portion, the handle having a fulcrum portion that abuts an outer surface of the container neck and (2) a cap portion that secures the material housed in the container. While Hyde does disclose a cap with a handle, the handle does not include a fulcrum portion, as claimed.

This deficiency is not surprising since the Hyde cap functions in an opposite manner to the cap of the present invention, which requires the claimed fulcrum portion to properly operate. Notably, the Hyde cap is removed from the bottle by lifting the handle or lever in a direction upwards, away from the bottleneck. As the handle is moved away from the bottle, the cap deforms at diametrically opposed, weakened notches in the cap, thus allowing the cap to free itself from the bottle bead. To the contrary, the claimed invention requires the handle to be operated in a direction toward the bottle. As the handle is depressed, the fulcrum portion of the handle allows the inwardly extending peripheral lip of the cap that simultaneously engages the entire circumference of the bead undercut of the bottle to free itself of the bead undercut and be removed. Because of the fulcrum, a simple cap design can be employed without the use of diametrically opposed, weakened notches in the cap, contrary to Hyde.

Moreover, Hyde is deficient in that it fails to disclose a cap portion that secures the material housed in the container. As described in Hyde, a separate cork or suitable sealing disk positioned under the cap is responsible for sealing the contents of the bottle. To the contrary, it is the cap portion itself in the claimed invention that sealably secures the material housed in the

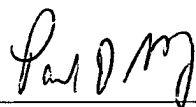
bottle. As a result, the claimed cap can be manufactured, used and reused with out the need for additional components, such as corks and sealing disks, as in Hyde.

Therefore, Applicant respectfully submits that the claimed invention is patentably distinguishable over Hyde. As such reconsideration and withdrawal of the §102(b) rejection is respectfully requested.

Applicant respectfully submits that the claimed invention is patentably distinguishable over the cited art. As such, passage of this application to allowance is respectfully requested.

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Respectfully submitted,



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